

Village of Croton-on-Hudson
Zoning Board of Appeals Meeting of
March 9, 2016

PRESENT: Rhoda Stephens, Chair
Peter Lavery
Alan Macdonald
Doug Olcott
Christine Wagner

ALSO PRESENT: Joe Sperber, Assistant Building Inspector

ABSENT: Trustee Ann Gallelli, Village Board Liaison

1. CALL TO ORDER:

The Zoning Board of Appeals Meeting of March 9, 2016 was called to order at 8:00 P.M.

Chairman Stephens started the meeting by stating that the Village Board Liaison, Trustee Gallelli, had told the Board she would not be able to attend tonight's meeting as she would be out of town.

2. OLD BUSINESS:

- a) **Schuyler, Peter, Agent for John Palladino (owner) and Rescue Auto Repair, Inc. (tenant) – 365 South Riverside Avenue.** Located in a C-2 General Commercial District and a Gateway Overlay District and designated on the Tax Maps of the Village as Section 79.13 Block 1 Lots 66, 68, and 69. Formal vote on interpretation made at February 10, 2016 Meeting as to whether Village Code Section 230-17B(1)(l) allows for both used car sales and rental of vehicles.

The Board heard the application at last month's meeting and tonight a formal vote was taken on the Board's interpretation. Chairman Stephens read the draft resolution. She then made a motion to approve the Board's interpretation that Village Code Section 230-17B(1)(l) allows both used car sales and the rental of vehicles. The motion was seconded by Ms. Wagner and the motion passed with a vote of 4 to 0 in favor. Mr. Lavery abstained from the vote because he had recused himself last month from the application.

3. NEW BUSINESS:

- a) **Cappelli, Stephen – 31 Observatory Drive.** Located in a RA-9 District and designated on the Tax Maps of the Village as Section 79.09 Block 7 Lot 35. Request for side yard variance for a proposed chimney.

Mr. & Mrs. Cappelli were in attendance to present the application. Mr. Cappelli explained that his wife wanted a fireplace and that the chimney for the fireplace would

require a side yard variance of 2 feet. Mrs. Cappelli said she had included letters supporting the variance request from four of her neighbors, one of whom is the neighbor adjoining the property on the side where the chimney would be erected.

Ms. Wagner asked if any trees would need to be cut down and Mrs. Cappelli replied in the negative and then directed the Board to a couple of photos included in the application documentation that showed the side of their property and a view to the adjoining neighbor's property.

Answering Mr. Olcott's inquiry, Mrs. Cappelli said that there are about 30 feet between their house and the adjoining neighbor's house; 10 feet of that distance is on their property and 20 feet is on the neighbor's property.

Mr. Macdonald asked the width of the fireplace to be installed and Mr. Cappelli said it would be about 5 feet wide.

With no more questions from the Board, Chairman Stephens opened the hearing to the public and when no one stepped forward, she closed the hearing.

Mr. Lavery, then made a motion to grant a 2-foot side yard variance for the proposed chimney on the east side of the house. Mr. Olcott seconded the motion. The motion passed with a vote of 5 to 0.

b) Perkins, John, Agent for Andrew & Tara Opel – 6 Memory Lane. Located in a RA-25 District and designated on the Tax Maps of the Village as Section 68.13 Block 3 Lot 39. Request for front yard variance for a proposed second floor addition and a proposed one-story addition with basement and a side yard variance for the same proposed additions as well as an existing deck on the west side of the house and an existing rear addition on the west side of the house.

Mr. Perkins introduced himself as the Opel's Architect and presented the application on behalf of the Opels who were present at tonight's meeting. He started by explaining that variances were being sought for pre-existing conditions as well as the proposed project. He said the property is an irregular lot at the corner of North Ledge Loop and Memory Lane with an older house on it. When the owners purchased the house in 2002 they were unaware of the non-conforming issues and are now seeking to legalize them as well as seeking variances for the proposed additions.

With the use of drawings on display for the Board, Mr. Perkins indicated where the variances were needed. The one-story addition would enlarge the kitchen, dining room, and family room areas and the second story addition would expand their son's second floor bedroom which currently is small and not full height. The addition would include a dormer allowing for more headroom for their son who currently cannot stand up in the bedroom.

He also used photos to help illustrate his point that the area between houses on the west and south sides are wooded areas and that no trees or plantings would need to be removed to accommodate the proposed project. He said that most of the variances being sought are for existing structures.

Chairman Stephens asked when the deck was built and Mr. Opel replied that it was a long time ago, prior to their purchase of the property.

Chairman Stephens then asked for confirmation that the Applicant was asking for variances for structures that have no permits and require legalization. It was so confirmed.

Mr. Perkins said the Opels reached out to their neighbors and were submitting letters of support from 10 different households which he distributed to the Board. (The Secretary had received a letter of support from an additional household, 26 Park Trail, earlier today and had distributed copies of that letter to the Board prior to the commencement of tonight's meeting). The letters submitted by Mr. Opel included the following addresses:

3 & 4 Valley Trail
4, 6, & 8 North Ledge Loop
15 & 44 Park Trail
2, 4, & 5 Memory Lane

Mr. Opel then proceeded to read the letters from Kevin Wines of 3 Valley Trail, Amy Attias of 4 North Ledge Loop, Michele Franks of 44 Park Trail, and Jacob Dyer of 5 Memory Lane.

Chairman Stephens stated that the Board had received a letter of objection from the adjoining neighbor on the west side of the property, Abigail Nicholls, of 3 North Ledge Loop.

Mr. Perkins said that he and the Opels had taken neighbor feedback into consideration, an example of which was the relocation of the basement door. As an aside, he said that existing homes in the neighborhood are about 3,000 to 4,000 square feet in size. The Opel's house is currently 1400 square feet. (Later on in the meeting, Mrs. Opel said the house is about 1600 sq. ft.) The additions would bring it up to 3100 square feet; 3600 square feet with the basement.

Chairman Stephens then opened the hearing to the public and Ms. Abigail Nicholls and Mr. Ray Gomez, of 3 North Ledge Loop, stepped forward to speak. Ms. Nicholls handed out additional material to the Board which included photos of views of the Opel property from her house and a chart of home sizes of neighboring properties obtained from the Zillow website.

Ms. Nicholls started by explaining that she and Mr. Gomez have a good relationship with their neighbors, the Opels, but feel it necessary to plead their case. She said they have no

issue with the variances for the existing structures (even though the existing deck is quite close to the shared property line) but feel that the proposed additions will have a big impact on their property. She said their view from the east side of their house, which includes the front door and front rooms, will change from a wooded view to a large extension. Due to the slope between the properties, the addition that will extend towards their house, will look like 2 stories in their sight line. The addition is also right next to the yard Ms. Nicholls and Mr. Gomez use the most. She said the front yard is now usable. She said the proposed extension of the house will block the sunrise and reduce the light coming into their house. The existing screened-in porch is unobtrusive because it is mostly open but the addition will be fairly significant and there is no screening between the houses. With regard to the letters of support presented by the Applicant, she said none of those homeowners will be impacted at all. She concluded by saying that she couldn't wish for better neighbors and they wish they could also support the project but they just cannot.

Mr. Lavery asked for clarification as to how the two houses face each other. It was clarified by Mr. Perkins. Mr. Perkins also wanted to address some of Ms. Nicholls' concerns. He said that the distance between the two houses is much greater than 30 feet and is more like 50 feet. The addition would only extend the house another 13.6 feet from the existing screened-in porch. The porch itself, which would be replaced by the addition, is not that attractive. He continued to say that the Opel house is not that much higher than the Nicholls-Gomez house. As far as the reduction of light – there is a pretty good distance between the houses and with regard to screening between the houses, what has been shown is not a good representation right now because of the time of year and the lack of leaves. He also added that the grade differential is not that great.

Ms. Wagner asked the Applicant what options had been considered. Mr. Perkins replied that he had tried to keep to the bare minimum with regard to the son's room.

Mr. Macdonald commented that there were no dimensions on the elevation drawings and Mr. Perkins said he didn't think they were required.

Ms. Nicholls reiterated how the reduction of light and loss of view would have a strong impact on her family. She said she had no objection to the existing screened-in porch but did object to the proposed extension. Mr. Opel said he would be happy to plant for screening and that the addition was only adding 13.5 feet.

Mr. Gomez remarked that he and Ms. Nicholls are in a very difficult situation. Their neighbors, the Opels, are very, very nice people, but he keeps staring at the area at issue, trying to convince himself that it will be okay, but he just cannot.

Mr. Olcott asked if there was any way to make the kitchen bigger and the ceiling higher and still maintain the footprint of the existing porch. Mr. Opel replied that the house is on the smaller side and is broken into little areas and he would like to create an open area with the living room opening up to the dining room. Mrs. Opel added that the house is only 1600 sq. ft. and that they are trying to create usable space.

Ms. Nicholls then asked why not push the house out towards Memory Lane and Mr. Perkins said that a front yard variance would then be needed and it would make the house non-conforming.

With no more comments from the public, the public hearing was closed.

The Board then discussed the application.

Mr. Lavery felt that the view from the Nicholls-Gomez home would not be directly impacted by the proposed changes; that there were different views from within their house. He said it appeared to be about 50 to 60 feet between the Opel and Nicholls-Gomez houses.

Ms. Wagner said she felt the requested variances are substantial and that there would be a detriment to nearby properties.

Mr. Olcott said that he had walked both properties and at first felt the same as Mr. Lavery but when he was down on the lower grade, he could see that there could be a big impact with the proposed addition. He said he would be inclined to approve the variances for the existing structures, and that the suggested alternative of locating the additions towards Memory Lane might be the way to go even if a front yard variance is needed; there would be a lesser impact to neighbors.

Mr. Macdonald said he thought the addition should be put on the other side of the house.

Chairman Stephens said she could understand both sides. She said she felt there was enough distance between the existing structure requiring the variance and the neighbor's house and suggested that the variances be separated between existing structures and proposed addition(s).

Ms. Wagner then made a motion to grant a 16.7-foot side yard variance for the existing deck and the existing addition both on the west side of the house and a 4.9-foot front yard variance for the existing structure on the east side of the house. Mr. Lavery seconded the motion and the motion passed with a vote of 4 to 1. Mr. Macdonald voted against the motion.

Ms. Wagner then made another motion to grant a 9.4-foot side yard variance and an 8-foot front yard variance for the proposed second floor addition and the proposed one-story addition with basement. The motion was seconded by Mr. Olcott. The motion was denied with a vote of 1 to 4. Mr. Lavery voted in favor and Chairman Stephens, Mr. Macdonald, Mr. Olcott, and Ms. Wagner voted against the motion.

- c) **Schneider, Heike, Agent for ABM Real Estate Management Corp. – 15 North Riverside Avenue.** Located in a C-1 District and designated on the Tax Maps of the Village as Section 78.08 Block 3 Lot 62. Request for waiver from Village

Sprinkler Systems Code Section 193-2A for a required sprinkler system in the proposed building addition.

Adam Anfiteatro, owner of ABM Real Estate Management Corp. was in attendance along with his Architect, Heike Schneider, who presented the application. The proposed project is a building addition to house two additional repair bays. Citing economic hardship, the Applicant is requesting a waiver from the Village Code which states that any addition which “increases the habitable or occupiable floor area of such building or structure by more than thirty percent (30%) and less than (50%) shall require a sprinkler system in the permit area only”. This addition of 784 square feet would be an increase of about 40%.

Ms. Schneider stated that the Village Code is more restrictive than State Code. She made the following points: 1. The existing structure does not require a sprinkler system and that the addition along with the existing structure are non-combustible structures of Type I construction 2. The one-story addition will have two 10-foot by 10-foot bay doors which would make dealing with a potential fire easier 3. The building is free-standing with the closest neighbor 40 feet away and that should the vacant lot next door be built upon, any structure would be at least 26 feet away and 4. No one is on the premises overnight. Ms. Schneider added that her client is not opposed to installing an alarm system that would be tied into the Fire Department.

Mr. Macdonald questioned whether an alarm system could be tied into the Fire Department directly and then also asked if it is known how much a sprinkler system might cost for the addition. Ms. Schneider and Mr. Anfiteatro said that an educated guess would be around \$15,000.

Ms. Wagner cited Village Code Section 75-2E of Chapter 75 Appeals “Any member of the Zoning Board of Appeals who is involved in a family, business or professional manner with the applicant shall excuse him/herself from the appeal proceeding”. She questioned whether she was obligated to recuse herself since she has her automobile serviced at Hudson View Automotive, which is located on the premises, and is owned by Mr. Anfiteatro. Mr. Lavery and Mr. Olcott then questioned whether they needed to also recuse themselves since they also know Mr. Anfiteatro and have their automobiles serviced at Hudson View Automotive.

Mr. Olcott asked Mr. Sperber why the Village Code is more restrictive than that of the State. Mr. Sperber could not say why, but did say that most municipalities in Westchester County have a couple of areas where their code is more restrictive and one of the areas is with regard to sprinkler systems.

Chairman Stephens then said the Board will seek advice from the Village Attorney with regard to the recusals and tabled the application to the next meeting.

Mr. Macdonald added that it would be helpful to the Board to see an estimate of the cost of the required sprinkler system, and Mr. Anfiteatro promised to provide estimates at the next meeting.

4. APPROVAL OF MINUTES:

Mr. Lavery made a motion to approve the amended minutes and resolution of the February 10, 2016 Zoning Board of Appeals meeting. The motion was seconded by Ms. Wagner. The motion passed 5 – 0 in favor.

5. ADJOURNMENT:

The meeting was adjourned at 10:17 P.M.

Respectfully submitted,

Toni Cruz
Secretary, Zoning Board of Appeals